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VIA HAND DELIVERY

Craig Whitenack, Civil Investigator
United States Environmental Protection Agency
Region IX, Southern California Field Office
600 Wilshire Avenue, Suite 1420
Los Angeles, California 90017

**Re: Yosemite Creek Superfund Site, San Francisco, CA
Response to the 104(e) Information Request**

Dear Mr. Whitenack:

This letter responds to the October 15, 2009 request for information ("RFI") of the United States Environmental Protection Agency ("EPA") to Roche Palo Alto LLC (for Syntex Laboratories, Inc. (referred to by EPA as Syntex Labs)) ("Roche Palo Alto") with regard to the Yosemite Creek Superfund site (the "Site").

Subject to both the general and specific objections noted below, and without waiving these or other available objections or privileges, Roche Palo Alto submits the following in response to the RFI and in accordance with the January 11, 2010 due date that EPA has established for this response.

GENERAL STATEMENTS

Roche Palo Alto has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. However, the RFI purports to seek a great deal of information that is not relevant to the Site or alleged contamination at the Site. For example, while we understand the basis of the purported connection between Roche Palo Alto and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (the "BAD Site"), certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location in the entire state of California. Facilities throughout California and the United States, if any, have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polychlorinated biphenyls ("PCBs")." However, certain RFI requests also seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA; thus Roche Palo Alto has limited its review of documents and information to the COCs identified by EPA.

As you know, in 1992 the California Department of Toxic Substances Control ("DTSC") conducted an extensive investigation of the BAD Site and Roche Palo Alto's operations in connection with it. DTSC's investigation included an information request to Syntex Labs and the DTSC files include Syntex Lab's Response to DTSC's information request, among other documents. As part of that request, Syntex Labs reviewed its records and interviewed appropriate individuals to obtain information related to the BAD Site. Almost two decades have past since the DTSC investigation. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Furthermore, Roche Palo Alto (via Syntex Labs) entered into a *"De Minimis Buy-Out and Indemnity Agreement Between the Bay Area Drum Ad Hoc PRP Group and Certain De Minimis PRPs."* As you may know from Mr. van Aelstyn's letter of October 26, 2009, to Michael Massey of the EPA, the Bay Area Drum Ad Hoc PRPs are providing Roche Palo Alto with a defense to EPA's claims with respect to the Yosemite Creek Site.

GENERAL OBJECTIONS

Roche Palo Alto asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. Roche Palo Alto asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law. In the event that a privileged or protected document has been inadvertently included among the documents produced in response to the RFI, Roche Palo Alto asks that any such document be returned to Roche Palo Alto immediately and here states for the record that it is not thereby waiving any available privilege or protection as to any such document.
2. In the event that a document containing CBI or trade secrets has been inadvertently included among the numerous documents provided in response to the RFI, Roche Palo Alto asks that any such documents be returned to Roche Palo Alto immediately so that Roche Palo Alto may resubmit the document in accordance with the applicable requirements for the submission of Confidential Information.
3. Roche Palo Alto objects to any requirement to produce documents or information already in the possession of a government agency, including but not limited to DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and Syntex Lab's operations in connection with it. DTSC's investigation included an information request to

Syntex Labs and the DTSC files include Syntex Lab's Response to DTSC's information request. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Notwithstanding this objection, and without waiving it, Roche Palo Alto will produce certain information or documents in its possession, custody, or control that it previously provided to or obtained from government agencies that contain information responsive to the RFI.

4. Roche Palo Alto objects to Instruction 4 to the extent it seeks to require Roche Palo Alto, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." Roche Palo Alto is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.

5. Roche Palo Alto objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on Roche Palo Alto to supplement these responses. Roche Palo Alto will, of course, comply with any lawful future requests that are within EPA's authority. Roche Palo Alto provides these responses in accordance with what it understands as of the date of these responses and reserves the right to supplement these responses should further discovery or analysis add meaning to these known facts and/or establish additional conclusions. Therefore, these response are provided without prejudice to Roche Palo Alto's right to add to, modify, or otherwise change or amend these responses.

6. Roche Palo Alto objects to Instruction 6 in that it purports to require Roche Palo Alto to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of Roche Palo Alto. EPA lacks the authority to require Roche Palo Alto to seek information not in its possession, custody or control.

7. Roche Palo Alto objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in Roche Palo Alto's possession, custody, or control. Roche Palo Alto disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known [by Roche Palo Alto] to exist" but not in Roche Palo Alto's possession, custody, or control.

8. Roche Palo Alto objects to the RFI's definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.

9. Roche Palo Alto objects to the definition of "identify" in Definition 7 to the extent that the definition encompasses home addresses of natural persons. Subject to this objection, current Roche Palo Alto employees and any other natural persons are identified by name and corporate address. Roche Palo Alto requests that any contacts with Roche Palo Alto employees identified in these responses or the related documents be initiated through Robert P. Soran, Esq., at Downey Brand LLP, 621 Capitol Mall, 18th Floor, Sacramento, California. Mr. Soran's telephone number is (916) 444-1000, ext. 5364.

10. Roche Palo Alto objects to EPA's requests that Roche Palo Alto provide EPA separately information that is contained in documents being furnished by Roche Palo Alto in response to the RFI. Where documents have been provided in connection with a response, information sought by EPA in the corresponding request for information that is set forth in those documents is not furnished separately. To do otherwise would be unduly burdensome.

RESPONSES TO OCTOBER 15, 2009 EPA INFORMATION REQUESTS

1. *Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying each of the products manufactured, formulated, or prepared by Roche Palo Alto is not feasible due to the 45 + year history of operations at this facility and the passage of time.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is providing EPA the following: Roche Palo Alto (via Syntex Labs) has occupied and operated at this facility since approximately 1963. From approximately 1963 to approximately 1995, pharmaceutical research and development (R&D) and manufacturing was conducted at this location. In approximately 1995 manufacturing was discontinued. Historically, the facility manufactured pharmaceutical creams, lotions, ointments, tablets, and capsules.

2. *Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:*

- a. *ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.*
- b. *are/were located in California (excluding locations where ONLY clerical/office work was performed);*
- c. *are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and

unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* location in California, even to locations other than the BAD Site. Other facilities that have no nexus with the BAD Site, and thus this request, are not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is providing EPA with certain information and documents that contain information related to the Roche Palo Alto facility that shipped drums or other containers to the BAD Site.

Specifically, as noted above, Roche Palo Alto (via Syntex Labs) occupied and operated at this facility since approximately 1963. The Syntex Labs location was commonly referred to, at all times relevant, as 3401 Hillview Avenue, Palo Alto, California. From approximately 1963 to approximately 1995, pharmaceutical research and development (R&D) and manufacturing was conducted at this facility. Historically, the facility manufactured pharmaceutical creams, lotions, ointments, tablets, and capsules. In approximately 1995 manufacturing was discontinued. This was the only location of Syntex Labs and Roche Palo Alto in California.

The investigation related to the Bay Area Drum matter indicates that from 1981 to 1984, Syntex Labs sold drums to Bay Area Drum. (See enclosed documents). We have not located any additional documents to indicate Syntex Labs did business with Bay Area Drum prior to February 1981 or after December 1984. Based on the investigation conducted in association with the Bay Area Drum matter, it is believed that many, if not all, of the drums purchased by Bay Area Drum from Syntex Labs may have been empty 55 gallon metal drums previously containing petrolatum (petroleum jelly). Petrolatum was the only drummed substance received between 1981 and 1984 in any quantity which would have resulted in an excess number of drums.

3. *Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facilities") including:*

- a. *the date such operations commenced and concluded; and*
- b. *the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, Roche Palo Alto objects to the request in (b.) that it describe "types of work performed at each location over time" Without an identification by EPA of the types of work it is referring to, it would be virtually impossible, given the broad nature of possible work the facility, to describe each and every type of work that was performed. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, see response to Request No. 2.

4. *For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest ("SOI") during the Relevant Time Period that still exist and the periods of time covered by each type of record.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require Roche Palo Alto to describe "types of records." Where documents have been provided in response to this RFI, each and every document regarding SOIs is not also "identified" by describing its contents. Roche Palo Alto further objects to Request No. 4 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Roche Palo Alto has limited its review of documents and information to the COCs identified by EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is providing EPA with certain information and documents that contain information related to Roche Palo Alto's facility that shipped drums or other containers to the BAD Site.

Notwithstanding the foregoing, and without any waiver of its objections, see response to Request No. 2.

5. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COCs at Roche Palo Alto's facility and the BAD Site, Request No. 5 purports to seek information relating to Roche Palo Alto's facility that is not relevant to contamination at the Site.

Notwithstanding the foregoing, and without any waiver of its objections, see response to Request No. 2.

6. *If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.*

RESPONSE:

See response to Request Nos. 2. and 5.

7. *If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased, used, or stored at each Facility.*

RESPONSE:

See response to Request Nos. 2 and 5.

8. *If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used, or stored at each Facility.*

RESPONSE:

See response to Request Nos. 2 and 5.

9. *If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE:

See response to Request Nos. 2 and 5.

10. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic oil or transformer oil at Roche Palo Alto's facility and the BAD Site, Request No. 10 purports to seek information relating to Roche Palo Alto's facility that is not relevant to contamination at the Site. See responses to Request Nos. 2 and 5.

11. *If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.*

RESPONSE:

See response to Request Nos. 2, 5, and 10.

12. *If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.*

RESPONSE:

See response to Request Nos. 2, 5, and 10.

13. *If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.*

RESPONSE:

See response to Request Nos. 2, 5, and 10.

14. *If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE:

See response to Request Nos. 2, 5, and 10.

15. *Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:*

- a. *Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;*
- b. *Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;*
- c. *State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;*
- d. *Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 15 purports to seek information relating to Roche Palo Alto's facility that is not relevant to contamination at the Site. See response to Request Nos. 2, 5, and 10.

18. *For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:*

- a. *the type of container (e.g. 55 gal. drum, tote, etc.);*
- b. *whether the containers were new or used; and*
- c. *if the containers were used, a description of the prior use of the container.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to Roche Palo Alto's facility that is not relevant to contamination at the Site. See response to Request Nos. 2, 5, and 10.

17. *For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Roche Palo Alto further objects to Request No. 17 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 17 purports to seek information that does not exist.

Roche Palo Alto further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus Roche Palo Alto has limited its review of documents and information to the COCs identified by EPA.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is providing herewith with certain information and documents that contain information related to Roche Palo Alto's facility that shipped drums or other containers to the BAD Site. See also response to Request Nos. 2, 5, and 10.

18. *For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identify all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facility that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is providing herewith with certain information and documents that contain information related to Roche Palo Alto's facility that shipped drums or other containers to the BAD Site. See also response to Request Nos. 2, 5, and 10.

19. *For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Roche Palo Alto further objects to Request No. 19 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 19 purports to seek information that does not exist. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is providing herewith with certain information and documents that contain information related to Roche Palo Alto's facility that shipped drums or other containers to the BAD Site. See also response to Request Nos. 2, 5, and 10.

20. *Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and

unduly burdensome. Request No. 20 purports to seek information relating to Roche Palo Alto's facility that is not relevant to contamination at the Site. Roche Palo Alto further objects to Request No. 20 as it purports to seek information regarding procurement of "Materials" at facility other than the BAD Site and thus goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto provides the following: Mr. David Wilson, is the present Director of Purchasing for Roche Palo Alto. His office location is 3431 Hillview Avenue, Palo Alto, CA 94304. Mr. Wilson has been in this position since approximately 2000. Mr. Wilson's responsibilities include procurement support for the facility. See also response to Request No. 2.

21. *Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:*

- a. *the type of container in which each type of waste was placed/stored;*
- b. *how frequently each type of waste was removed from the Facility; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 21 purports to seek information regarding collection and storage of "any SOIs" at facility other than the BAD Site. To the extent that EPA seeks information about facility that have no nexus with the BAD Site, this request is not relevant to the Site. See response to Request No. 2.

22. *Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:*

- a. *the type of container (e.g. 55 gal. drum, dumpster, etc.);*
- b. *the colors of the containers;*
- c. *any distinctive stripes or other markings on those containers;*
- d. *any labels or writing on those containers (including the content of those labels);*
- e. *whether those containers were new or used; and*
- f. *if those containers were used, a description of the prior use of the container;*

Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Roche Palo Alto further objects to Request No. 22 as it assumes that each SHC is somehow individually identified, tracked, and used and reused by the same entity throughout the life of the SHC. There is no evidence that BAD operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 22 purports to seek information that does not exist.

As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Roche Palo Alto further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Roche Palo Alto has limited its review of documents and information to the COCs identified by EPA. Additionally, Roche Palo Alto objects to Request No. 22 as it purports to seek information regarding containers used to remove each type of waste containing any SOIs from the facility and taken to any other place during any time. To the extent that EPA seeks information about facility that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is providing herewith with certain information and documents that contain information related to Roche Palo Alto's Facilities that shipped drums or other containers to the BAD Site. See also response to Request No. 2.

23. *For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. State the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Roche Palo Alto further objects to Request No. 23 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Roche Palo Alto has limited its review of documents and information to the COCs identified by

EPA. Additionally, Roche Palo Alto objects to Request No. 23 as it purports to seek information regarding waste generated at any Facility that contained any SOIs and taken to any other place during any time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. See response to Request 22.

24. *Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all individuals who currently have, and those who have had, responsibility for Roche Palo Alto's environmental matters at all of Roche Palo Alto's Facilities, including those that have no nexus to the BAD Site, is not feasible due to the 45 + year history of operations at this facility and the passage of time.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto provides the following: Mr. Alex Haedrich is the present Director of Environmental Health & Safety for Roche Palo Alto. His office location is 3431 Hillview Avenue, Palo Alto, CA 94304. Mr. Haedrich has been in this position since approximately 1995. See also response to Request No. 2.

25. *Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which Roche Palo Alto has ever acquired such drums or containers is not feasible due to the 45 + year history of operations at this location and the passage of time.

26. *Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Roche Palo Alto further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not

relevant to the Site; thus, Roche Palo Alto has limited its review of documents and information to the COCs identified by EPA.

27. *Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work. Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Roche Palo Alto further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Notwithstanding the foregoing, and without any waiver of its objections, Roche Palo Alto is unaware of any such actions or cleanups having been conducted at this facility.

28. *Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DTSC conducted an extensive investigation of the BAD Site and Roche Palo Alto's operations in connection with it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. Roche Palo Alto understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Notwithstanding the foregoing, and without any waiver of its objections, see response to Request No. 2.

29. *Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.*

RESPONSE:

In addition to the General Statements and Objections set forth above, Roche Palo Alto objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, Roche Palo Alto has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, Roche Palo Alto understands that EPA is already in possession of DTSC's files regarding the BAD Site. Roche Palo Alto is under no further obligation to identify time periods to which these documents do not pertain.

30. *Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.*

RESPONSE:

In addition to the General Statements and Objections set forth above, and the objections to Requests Nos. 1 through 29, Roche Palo Alto objects to Request No. 30 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site; thus, Roche Palo Alto has limited its review of documents and information to the COCs identified by EPA. Roche Palo Alto further objects to Request No. 30 as it purports to seek copies of documents containing information responsive to the previous twenty-nine questions. DTSC conducted an extensive investigation of the BAD Site and the operations in connection with it. DTSC's investigation included an information request to Syntex Labs and the DTSC files include Syntex Lab's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Notwithstanding the foregoing, and without any waiver of its objections, see response to Request No. 2 and the enclosed documents.

Any questions EPA may have regarding the responses to these information request may be directed to Robert P. Soran, Esq., at Downey Brand LLP, 621 Capitol Mall, 18th Floor, Sacramento, California. Mr. Soran's telephone number is (916) 444-1000, ext. 5364.

Very truly yours,



Kevin A. Marks